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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/576,873

04/21/2006

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JRL-2380-1228

4840

23117 7590 12/08/2009
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EXAMINER

BATISTA, MARCOS

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

12/08/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/576,873 | Applicant(s) BLADSJO ET AL. | |
| | Examiner MARCOS BATISTA | Art Unit 2617 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-33, 35, 36 and 38-71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30-33, 35, 36, 38-71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Action is in response to Applicant's amendment filed on 08/26/2009. Claims 30-33, 35, 36, 38-71 are still pending in the present application. This Action is made **Non-FINAL**.

In view of the Appeal Brief filed on 08/26/2009, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Rafael Pérez-Gutiérrez/

Supervisory Patent Examiner, Art Unit 2617

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

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obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 30-33, 35, 36, 38-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rinchiuso et al. (US 20040196861 A1), hereafter "Rinchiuso," in view of Le et al. (US 20070097941 A1), hereafter "Le," further in view of Forssell (US 20030142657 A1), hereafter "Forssell."

Consider claims 30, 40, 44, 50, 51, 56 and 67, Rinchiuso discloses a method of polling in a packet-based data communications system, said communications system comprising a base station system (**100**) polling connected user equipment (**113**) wherein said polling is performed according to: Rinchiuso also teaches a complementary second type of polling requiring the user equipment to transmit a data packet to the base station system in response to reception of polling of the second type (**see fig. 12, [0025], [0057]** – Corresponding to a second type of polling, the base station **100** requires the remote unit (**113**) to send a dummy data packet if no data is available to keep the channel up).

Rinchiuso, however, does not particular refer to a first type of polling allowing said user equipment to choose whether or not to transmit a data packet to the base station system in response to reception of polling of the first type.

Le, in analogous art, teaches a type of polling allowing said user equipment to choose whether or not to transmit a data packet to the base station system in response to reception of polling of this type (**see pars. 0008 lines 8-10, 0009 lines 1-4**).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of Rinchiuso and have it include a type of polling allowing said user equipment to choose whether or not to transmit a data packet to the base station system in response to reception of polling of this type, as taught by Le. The motivation would have been in order to better utilize transmission slots available to access points (**see par. 0005**).

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Rinchuso as modified by Le, however, does not particular refer to wherein said first type comprises polling with an uplink state flag and said second type comprises polling with a control block.

Forssell, in analogous art, teaches wherein said first type comprises polling with an uplink state flag and said second type comprises polling with a control block (**see pars. 0008 lines 1-6, 0033 lines 7-15**).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of Rinchuso as modified by Le and have it include wherein said first type comprises polling with an uplink state flag and said second type comprises polling with a control block, as taught by Forssell. The motivation would have been in order to provide alert the mobile station about a polling request (**see pars. 0008 and 0033**).

Consider claims 31, 41, 46, 55 and 71, Rinchuso as modified by Le and Forssell discloses the invention as in claims 30, 40, 44, 51 and 67 above. Rinchuso also teaches base station system performs polling according to the first type on a first logical channel, and performs polling according to the complementary second type on a second logical channel (see fig. 7, [0049] – The base station assigned logical channels for polling and control purposes LLC).

Consider claims 32, 42, 47, 52 and 68, Rinchuso as modified by Le and Forssell discloses the invention as in claims 30, 40, 44, 51 and 67 above. Rinchuso also

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teaches the base station system transmits polling information to said user equipment, said information enabling the user equipment to identify the polling type of the received polling (see [0022], [0057] – In [0022], the remote unit is in a suspended state listening to polling request from the base station, but the remote units is taking no action if not data is to be transmitted. In [0056], the remote unit will transmit a dummy block if not data is available on a response to a polling request from the base station. The above mentioned procedures allow the remote unit to distinguish between one type of polling and the other).

Consider claims 33, 43 and 48, Rinchiuso as modified by Le and Forssell discloses the invention as in claims 32, 42 and 47 above. Rinchiuso also teaches polling information from the base station system is based on a current radio traffic situation in the communication system (see [0056], [0057] – The base station periodically polls the remote unit to check on transmission status).

Consider claims 35, 49 and 58, Rinchiuso as modified by Le and Forssell discloses the invention as in claims 30, 44 and 56 above. Rinchiuso also teaches the communications system is selected from at least one of: a General Packet Radio Service (GPRS) communication system, an Enhanced GPRS (EGPRS) communication system, a GPRS Enhanced Data rates for GSM (Global System for Mobile communications) Evolution (EDGE) communications system, a Wideband Code Division Multiple Access (W-CDMA) communications system, a CDMA2000

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communications system, a Wireless Local Area Network (W-LAN) communications system (see [0019]).

Consider claims 36, 63 and 65, Rinchiuso as modified by Le and Forssell discloses the invention as in claims 30, 50 and 56 above. Rinchiuso also teaches wherein said user equipment in response to reception of said polling of the second type transmits a user data packet to the base station system if said user data packet is available for transmission in the user equipment, otherwise the user equipment transmits a dummy data packet (see fig. 11, [0056]). Rinchiuso further teaches wherein said user data packet comprises user payload data and said dummy data packet comprises data enabling the base station system to identify the user equipment (see fig. 11, [0056], [0057] – Whenever a remote unit communicates with a base station in a packet-data system, the data sent from the remote unit contains the id of the remote unit).

Consider claims 38, 60, 62, 64 and 66, Rinchiuso as modified by Le and Forssell discloses the invention as in claims 30, 40, 44, 50 and 56 above. Le also teaches wherein said user equipment in response to reception of said polling of the first type sends a user data packet to the base station system if said user data packet is available for transmission in the user equipment (see pars. 0008 lines 8-10, 0009 lines 1-4). The motivation would have been in order to better utilize transmission slots available to access points (see par. 0005).

Consider claim 39, Rinchiuso as modified by Le and Forssell discloses the invention as in claim 30 above. Le also teaches wherein said user equipment in response to reception of said polling of the first type does not send any type of data packet to the base station system if a user data packet is not available for transmission in the user equipment (see pars. 0008 lines 8-10, 0009 lines 1-4). The motivation would have been in order to better utilize transmission slots available to access points (see par. 0005).

Consider claim 45, Rinchiuso as modified by Le and Forssell discloses the invention as in claim 44 above. Rinchiuso also teaches wherein said base station system comprises third means adapted for analyzing the current radio traffic situation in the communications system and for determining which type of polling to transmit (see fig. 6, [0046] – The base station can use a data limit as a third means for using another polling type).

Consider claims 53 and 69, Rinchiuso as modified by Le and Forssell discloses the invention as in claims 51 and 67 above. Rinchiuso also teaches wherein said equipment further comprises a buffer unit for storing user data packets awaiting transmission. (see [0022], [0031] – As explained in [0022], the polling illustration is done from the base station to the remote unit, but the same can be performed from the remote unit to the base station in a similar manner. The buffer shown in [0031] would correspond to the remote unit when the remote unit is transmitting the data).

Consider claims 54 and 70, Rinchiuso as modified by Le and Forssell discloses the invention as in claims 53 and 67 above. Rinchiuso teaches wherein said first circuitry and said second circuitry are adapted to check if there are any user data packets in the buffer in response to polling from the base station system (see [0031], [0056] - The base station will periodically give the remote unit a chance to transmit data. This means that the remote unit will transmit any available data (buffered or current) to the base station on polling request from the base station).

Consider claims 59 and 61, Rinchiuso as modified by Le and Forssell discloses the invention as in claims 40 and 44 above. Rinchiuso teaches wherein said user equipment in response to reception of said polling of the second type transmits a user data packet to the base station system if said user data packet is available for transmission in the user equipment, otherwise the user equipment transmits a dummy data packet (see fig. 11, [0056]). Le also teaches wherein said user equipment in response to reception of said polling of type one shall send a user data packet to the base station system if said user data packet is available for transmission in the user equipment (see pars. 0008 lines 8-10, 0009 lines 1-4). The motivation would have been in order to better utilize transmission slots available to access points (see par. 0005).

Conclusion

6. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Marcos Batista, whose telephone number is (571) 270-5209. The Examiner can normally be reached on Monday-Thursday from 8:00am to

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5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Rafael Pérez-Gutiérrez can be reached at (571) 272-7915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

/Marcos Batista/
Examiner

/Rafael Pérez-Gutiérrez/
Supervisory Patent Examiner, Art Unit 2617

11/25/2009